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**EXPLANATORY MATERIAL**

*A New Tax System (Goods and Services Tax) Act 1999*  
*Excise Act 1901*  
*Customs Act 1901*

*A New Tax System (Goods and Services Tax) Amendment Regulations 2011 (No. )*  
*Excise Amendment Regulations 2011 (No. )*  
*Customs Amendment Regulations 2011 (No. )*

Section 177-15 of the *A New Tax System (Goods and Services Tax) Act 1999*, section 164 of the *Excise Act 1901* and section 270 of the *Customs Act 1901* provide that the Governor-General may make regulations prescribing matters required or permitted by the Acts to be prescribed, or as necessary or convenient to be prescribed for carrying out or giving effect to the Acts.

The purpose of the proposed regulations is to provide better export verification procedures for liquids, aerosols, gels, creams and pastes (LAG products) purchased free of (excise or customs) duty, Goods and Services Tax (GST) or Wine Equalisation Tax (WET) under the Sealed Bag Scheme, by passengers travelling on international flights.

International security restrictions applying since 31 March 2007, set out in the *Aviation Transport Security Regulations 2005*, have prevented passengers from carrying LAG products by hand onto international flights unless the product is 100 millilitres or less and the products are sealed in one transparent, one litre plastic bag (or less). As a result, international travellers have been required to pack LAG products containing more than 100 millilitres into checked luggage, as opposed to being able to carry them on board international flights as hand held luggage.

These arrangements are inconsistent with the sealed bag scheme rules established in the *A New Tax System (Goods and Services Tax) Regulations 1999*, *Excise Regulations 1925* and *Customs Regulations 1926* which require international travelling passengers to present their off-airport duty, GST and WET free purchases (including LAG products greater than 100 millilitres) to an airside agent of the retailer (a 'docket plucker') who will remove the invoice attached to the sealed bag. As such, off-airport duty, GST and or WET free purchases must be carried on board international flights as hand held luggage.

With the agreement of the Australian Taxation Office (ATO) and the Australian Customs and Border Protection Service (Customs and Border Protection), off-airport duty, GST and or WET free retailers have implemented interim sealed bag arrangements which are consistent with international airport security restrictions. This has resulted in travellers removing their sealed bag invoice (associated with LAG products greater than 100 millilitres), themselves prior to packing the LAG products in their checked luggage.

The proposed regulations will aim to ensure that people who have acted in accordance with the requirements of the *Aviation Transport Security Regulations 2005* and the

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interim sealed bag arrangements will not have breached any condition relating to the sealed bag scheme rules.

For reasons of simplicity and practically, these regulations will apply to all LAG products subject to the sealed bag arrangements regardless of whether they are LAG products less than 100 millilitres. There will be no significant change to the operation of the sealed bag scheme for non-LAG products.

Under the proposed amendments, off-airport duty free retailers will be required to pack any duty or tax free LAG products into a separate sealed bag to all other goods. Travellers will then be required to pack the LAG products in their checked luggage and only break open the sealed bag after leaving Australia. A declaration in an approved form (forms are approved by the Commissioner or the CEO) and invoice must be attached to the outside of the sealed bag containing the LAG products, which will enable the purchaser of the LAG products to remove the declaration and invoice from the sealed bag and pack the LAG products into their checked luggage. Following this, travellers must sign the declaration, stating that the goods have been packed into their checked luggage, and penalties will apply for false and misleading statements. The traveller will then be required to present the invoice and corresponding declaration to the airside docket plucker.

Off-airport duty free retailers will be liable for the duty or tax liability if the traveller fails to complete the declaration (for example, the declaration was not signed) and fails to provide the declaration to the airside agent of the retailer.

The proposed amendments will also extend the period during which travellers can make duty or tax-free purchases from 30 days to 60 days under the sealed bag system (this is consistent with changes to the Tourist Refund Scheme (TRS) discussed below).

### *Changes to the Tourist Refund Scheme*

The Tourist Refund Scheme (TRS) enables eligible travellers to claim a refund of the GST and WET on goods travellers purchase in Australia and take with them overseas. In the 2008-09 Budget the Government supported minor reforms to the eligibility criteria for the TRS.

The proposed amendments to the TRS will extend the period during which travellers can purchase goods and be eligible to claim a refund of GST and WET through the TRS from 30 days to 60 days and allow travellers accessing the TRS to aggregate multiple invoices from single retailers in order to meet the \$300 threshold for TRS claims.

The proposed regulations relating to the LAGs and the TRS will apply 60 days after the day the regulations are registered on the Federal Register of Legislative Instruments. This will provide industry with sufficient time to put in place necessary administrative arrangements.

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